

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Case No. 2:24-cv-08102

AUGUST IMAGE, LLC,

Plaintiff,

v.

DRIP MEDI SPA LLC,

Defendant.

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**COMPLAINT**

August Image, LLC (“Plaintiff”) sues defendant Drip Medi Spa LLC (“Defendant”), and alleges as follows:

**THE PARTIES**

1. Plaintiff is a limited liability company organized and existing under the laws of the State of New York with its principal place of business located in New York, NY.

2. Defendant is a limited liability company organized and existing under the laws of the State of New Jersey with its principal place of business located at 15 South Dean Street, Englewood, NJ 07631. Defendant serves as its own agent of service of process at 15 South Dean Street, Englewood, NJ 07631.

**JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because it has maintained sufficient minimum contacts with this State such that the exercise of personal jurisdiction over it

would not offend traditional notions of fair play and substantial justice.

5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a) because Defendant or its agents reside or may be found in this district. “A defendant in a copyright action ‘may be found’ wherever the defendant is subject to personal jurisdiction.” Skidmore v. Led Zeppelin, 106 F.Supp.3d 581, 584 (E.D. Pa 2015). In other words, “[b]ecause Defendant is subject to personal jurisdiction in Delaware... venue is also proper for Defendant in this Court.” RMG Media, LLC v. iBoats, Inc., Civil Action No. 20-cv-290-RGA, 2021 U.S. Dist. LEXIS 62224, at \*10 (D. Del. Mar. 31, 2021).

## **FACTS**

### **I. Plaintiff’s Business and History**

6. From its offices in New York City and London, Plaintiff represents (all around the world) over 100 of some of the most creative and innovative contemporary photographers working today.

7. Plaintiff boasts a wide collection of portrait, lifestyle, beauty and fashion photography for editorial and commercial licensing. Some of Plaintiff’s image collection and a list of the photographers it represents is available on its website (at <https://www.augustimage.com/>).

8. Plaintiff sets itself apart from others because it is knowledgeable about its exclusive images and strives to provide a high level of customer satisfaction. In order to make its rights managed collection available to its clients, Plaintiff has spent years to secure the relationships, information and team to efficiently acquire the releases as necessary.

### **II. The Work at Issue in this Lawsuit**

9. Joe Pugliese, Ben Hassett, and Benjamin Lennox are some of the many renowned photographers represented by Plaintiff.

10. Joe Pugliese is a native of California who specializes in his favorite form of photography: photographing people. Mr. Pugliese's work can be viewed on his professional website (at <http://www.joepug.com/current>). He has learned over the years to use lighting, color, angles, shadows, and the background to capture the soul of his subjects which include scientists, authors, performers, creative geniuses, and everyday people. Mr. Pugliese travels extensively for his craft on behalf of his clients which include recognizable print magazines and studio networks such as Vanity Fair, GQ Magazine, Esquire, Men's Journal, Billboard, The New Yorker, NBC Universal, Fox Studios, Apple, Inc, Warner Brothers, Sony Television, Turner Broadcasting, and many more.

11. Ben Hassett, who lives and works in New York City, has established a reputation as one of the world's foremost beauty and portrait photographers. Experimenting with shadows and light – color and form – he follows in the tradition of Irving Penn and Edwin Blumenfeld, as a commercial Photographer who also creates Fine Art. His work is held in the collection of the National Portrait Gallery in London and he is a regular contributor to Vogue Magazines Worldwide. Alongside his commercial studio practice, he created experimental Still Life and Landscape Photography. His work can be viewed on his professional website (at <https://www.benhassett.com/>).

12. Benjamin Lennox, a native of the United Kingdom, is a well-known photographer in the industry. His exploration of color is deeply rooted in his background in painting. Mr. Lennox's transition from creating abstract images to delving into the realms of photography and motion was swift. This allowed him to further refine and elevate his distinctive style characterized by his masterful manipulation of color and form. His talent in photography has afforded him opportunities to collaborate with a diverse range of publications, including 10 Man, Numero Japan,

032c, Dazed Japan, W, V Spain, Vogue Russia, V Man, and Muse. Mr. Lennox's work can be viewed on his professional website (at <https://www.benjaminlennox.film/>).

*A. The First Photograph*

13. In 2014, Mr. Pugliese created a professional photograph of actor Jennifer Lopez titled "AU1756845" (the "First Photograph"). A copy of the First Photograph is displayed below:



14. The First Photograph was registered by Mr. Pugliese with the Register of Copyrights on August 19, 2014 and was assigned Registration No. VAu 1-177-344. A true and correct copy of the Certificate of Registration pertaining to the First Photographer is attached hereto as **Exhibit "A."**

15. Mr. Pugliese is the owner of the First Photograph and has remained the owner at all times material hereto.

***B. The Second Photograph***

16. In 2013, Mr. Hassett created a professional photograph of a woman removing a golden skincare mask titled “AU11364786” (the “Second Photograph”). A copy of the Second Photograph is exhibited below:



17. The Second Photograph was registered by Mr. Hassett with the Register of Copyrights on November 3, 2020 and was assigned Registration No. VA 2-232-667. A true and correct copy of the Certificate of Registration pertaining to the Second Photograph is attached hereto as “Exhibit B.”

***C. The Third Photograph***

18. In 2016, Mr. Hassett created a professional photograph of a woman wearing silver metallic eye makeup titled “AU11340308” (the “Third Photograph”). A copy of the Third Photograph is exhibited below:



19. The Third Photograph was registered by Mr. Hassett with the Register of Copyrights on April 12, 2021 and was assigned Registration No. VA 2-249-307. A true and correct copy of the Certificate of Registration pertaining to the Third Photograph is attached hereto as **“Exhibit C.”**

20. Mr. Hassett is the owner of the Second Photograph and Third Photograph and has remained the owner at all times material hereto.

***D. The Fourth Photograph***

21. In 2014, Mr. Lennox took a professional photograph of a golden metallic tongue and teeth titled “AU11161358” (the **“Fourth Photograph”**). A copy of the Fourth Photograph is displayed below:





22. The Fourth Photograph was registered by Mr. Lennox with the Register of Copyrights on May 3, 2021 and was assigned Registration No. VA 2-250-729. A true and correct copy of the Certificate of Registration pertaining to the Fourth Photograph is attached hereto as **Exhibit “D.”**

23. Mr. Lennox is the owner of the Fourth Photograph and has remained the owner at all times material hereto.

24. The First Photograph, Second Photograph, Third Photograph, and Fourth Photograph are collectively referred to herein as the “Work.”

25. For all times relevant to this action, Plaintiff and the above-named photographer(s) were parties to one or more written agreements whereby such photographer(s) conveyed to Plaintiff certain exclusive rights in the Work, including but not limited to the exclusive right to reproduce the Work in copies and the exclusive right to distribute copies of the Work to the public by sale and/or licensing. Such written agreement(s) likewise convey the exclusive right to pursue any infringements of the Work, whether such infringements arose prior to execution of the written agreement(s) or thereafter. As such, Plaintiff is entitled to institute and maintain this action for

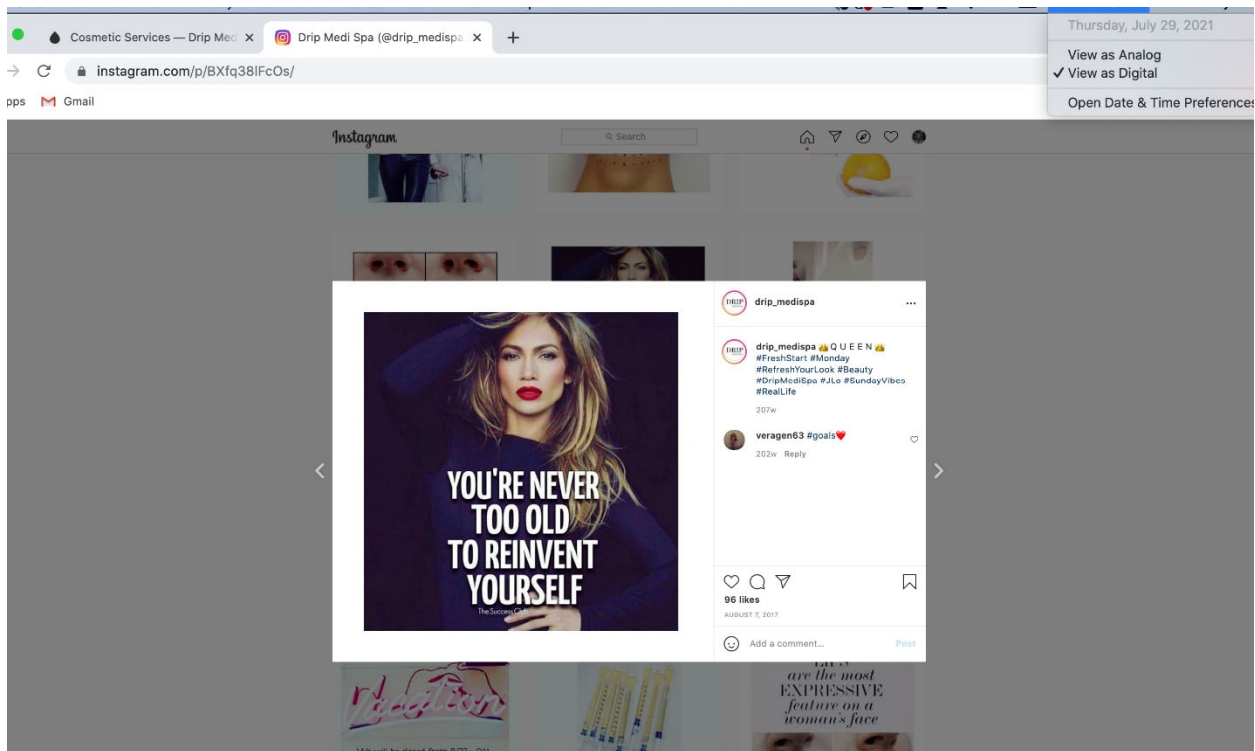
copyright infringement. See 17 U.S.C. § 501(b).

### III. Defendant's Unlawful Activities

26. Defendant promotes on its main website to be “New Jersey’s ‘first’ boutique medical spa.” Defendant offers various skincare, wellness, beauty, and cosmetic treatments and services to cater for a wide array of clientele.

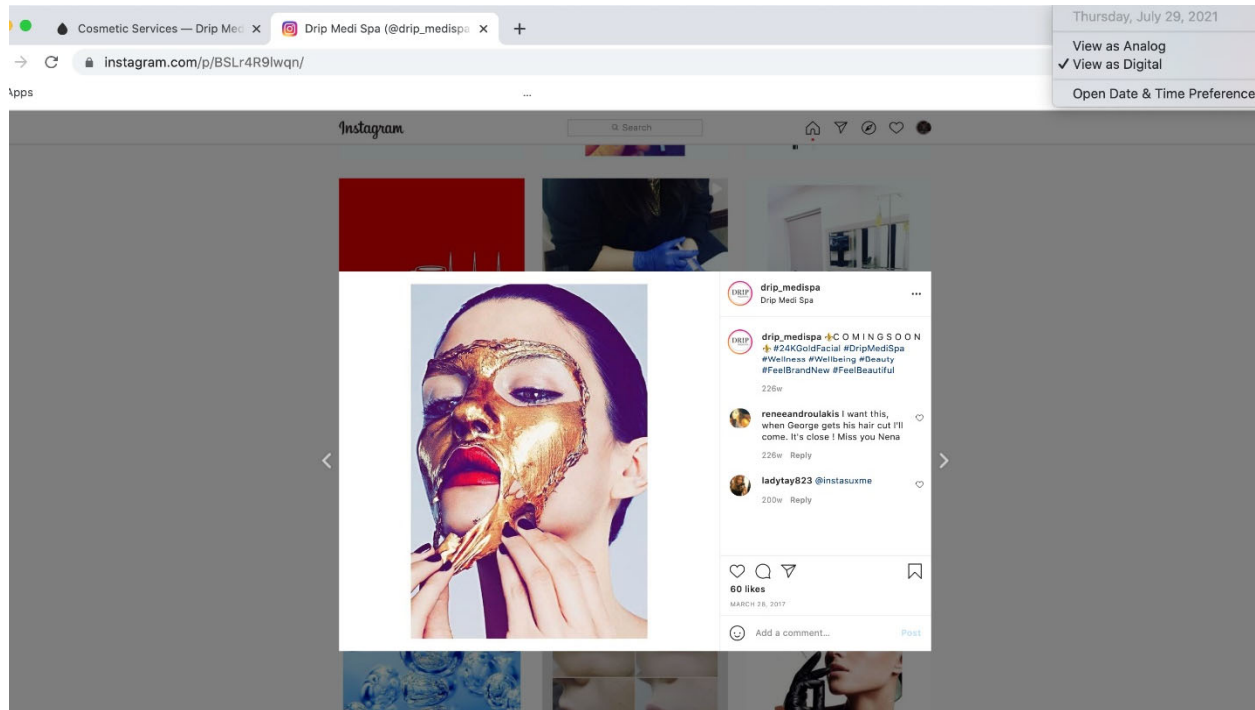
27. Defendant advertises/markets its business through its website (<https://dripmedispa.com/>), social media (e.g., <https://www.facebook.com/dripwellness/>, [https://www.instagram.com/drip\\_medispa/](https://www.instagram.com/drip_medispa/), and <https://www.tiktok.com/@dripmedispa/>), and other forms of advertising.

28. On August 7, 2017 (after Mr. Pugliese’s above-referenced copyright registration of the First Photograph), Defendant displayed and/or published the First Photograph on its website, webpage, and/or social media (at <https://www.instagram.com/p/BXfq38IFcOs/>):

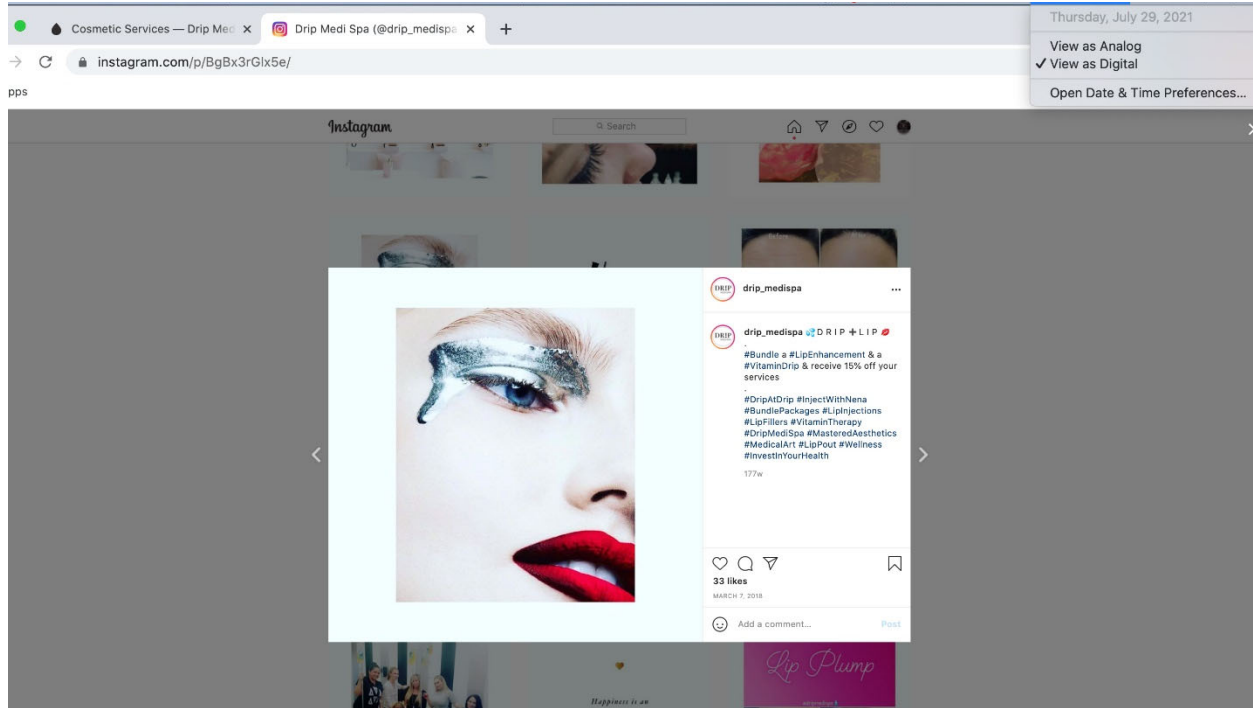




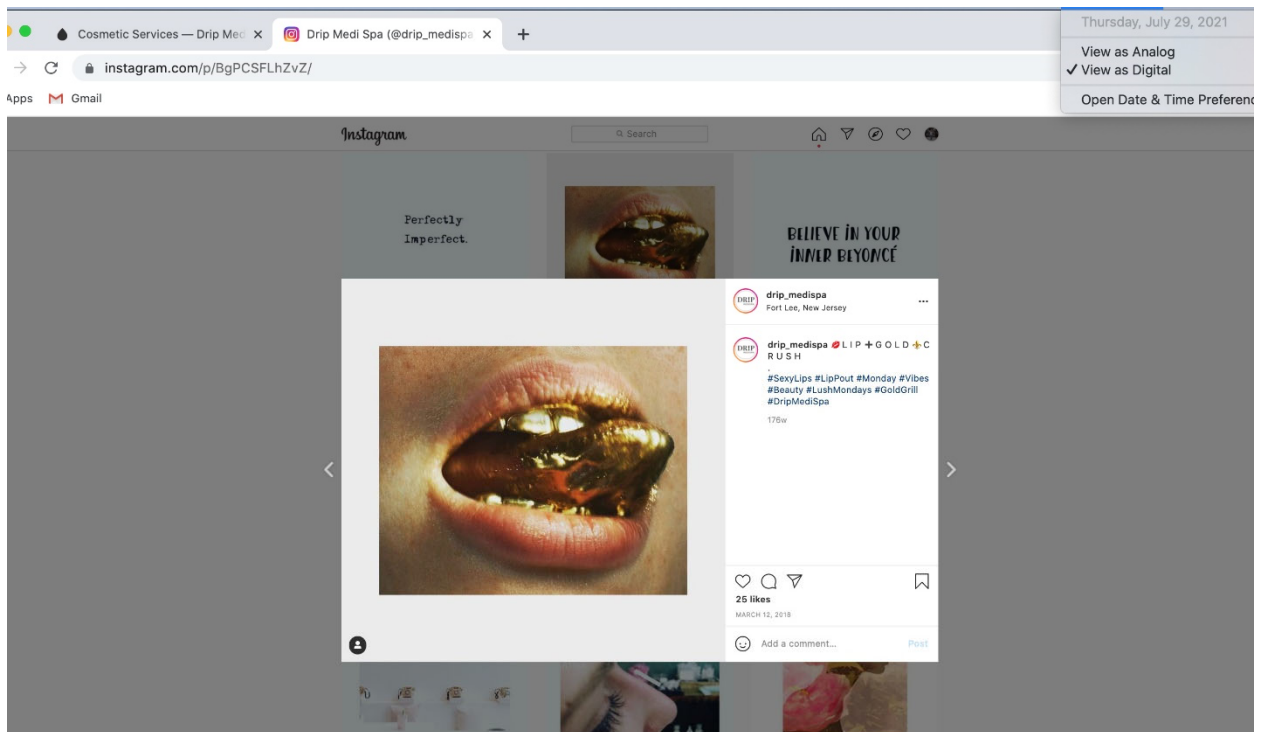
29. On March 28, 2017 (before Mr. Hassett's above-referenced copyright registration of the Second Photograph), Defendant displayed and/or published the Second Photograph on its website, webpage, and/or social media (at <https://www.instagram.com/p/BSLr4R9lwqn/>):



30. On March 7, 2018 (before Mr. Hassett's above-referenced copyright registration of the Third Photograph), Defendant displayed and/or published the Third Photograph on its website, webpage, and/or social media (at <https://www.instagram.com/p/BgBx3rGlX5e/>):



31. On March 12, 2018 (before Mr. Lennox's above-referenced copyright registration of the Fourth Photograph), Defendant displayed and/or published the Fourth Photograph on its website, webpage, and/or social media (at <https://www.instagram.com/p/BgPCSFLhZvZ/>):



32. A true and correct copy of the screenshots of Defendant's website, webpage, and/or social media, displaying the copyrighted Work, is attached hereto as **Exhibit "E."**

33. Defendant is not and has never been licensed to use or display the Work. Defendant never contacted Plaintiff to seek permission to use the Work in connection with its business or for any other purpose.

34. Defendant utilized the Work for commercial use.

35. Upon information and belief, Defendant located a copy of the Work on the internet and, rather than contact Plaintiff to secure a license, simply copied the Work for its own commercial use.

36. Through its ongoing diligent efforts to identify unauthorized use of its photographs, Plaintiff discovered Defendant's unauthorized use/display of the Work on July 29, 2021. Following Plaintiff's discovery, Plaintiff notified Defendant in writing of such unauthorized use. To date, Plaintiff has been unable to negotiate a reasonable license for the past infringement of the Work.

37. All conditions precedent to this action have been performed or have been waived.

**COUNT I – COPYRIGHT INFRINGEMENT**  
**(The First Photograph)**

38. Plaintiff re-alleges and incorporates paragraphs 1 through 37 as set forth above.

39. The First Photograph is an original work of authorship, embodying copyrightable subject matter, that is subject to the full protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).

40. Mr. Pugliese owns a valid copyright in the First Photograph, having registered such photograph with the Register of Copyrights.

41. Plaintiff has standing to bring this lawsuit and assert the claim(s) herein as it has

sufficient rights, title, and interest to such copyrights (as Plaintiff was conveyed certain exclusive rights to reproduce and distribute the First Photograph by the subject photographer(s)).

42. As a result of Plaintiff's reproduction, distribution, and public display of the First Photograph, Defendant had access to the First Photograph prior to its own reproduction, distribution, and public display of the First Photograph on Defendant's website, webpage, and/or social media.

43. Defendant reproduced, distributed, displayed, and/or publicly displayed the First Photograph without authorization from Plaintiff.

44. By its actions, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501. Defendant's infringement was either direct, vicarious, and/or contributory.

45. Plaintiff has been damaged as a direct and proximate result of Defendant's infringement.

46. Plaintiff is entitled to recover its actual damages resulting from Defendant's unauthorized use of the First Photograph and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits from infringement of the First Photograph, which amounts shall be proven at trial.

47. Alternatively, and at Plaintiff's election, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed proper by the Court.

48. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover its costs and attorneys' fees as a result of Defendant's conduct.

49. Defendant's conduct has caused, and any continued infringing conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no

adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

**WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has infringed Plaintiff's copyrights in the First Photograph;
- b. A declaration that such infringement is willful;
- c. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election, an award of statutory damages for willful infringement up to \$150,000.00 for the First Photograph;
- d. Awarding Plaintiff its costs and reasonable attorneys' fees pursuant to 17 U.S.C. § 505;
- e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;
- f. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to display, transfer, advertise, reproduce, or otherwise market any works derived or copied from the First Photograph or to participate or assist in any such activity; and
- g. For such other relief as the Court deems just and proper.

**COUNT II – COPYRIGHT INFRINGEMENT**  
**(The Second Photograph, Third Photograph, and Fourth Photograph)**

50. Plaintiff re-alleges and incorporates paragraphs 1 through 37 as set forth above.

51. The Second Photograph, Third Photograph, and Fourth Photograph are each an original work of authorship, embodying copyrightable subject matter, that is subject to the full protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).

52. Mr. Hassett owns a valid copyright in the Second Photograph and Third Photograph, having registered such photographs with the Register of Copyrights.

53. Mr. Lennox owns a valid copyright in the Fourth Photograph, having registered such photograph with the Register of Copyrights.

54. Plaintiff has standing to bring this lawsuit and assert the claim(s) herein as it has sufficient rights, title, and interest to such copyrights (as Plaintiff was conveyed certain exclusive rights to reproduce and distribute the Second Photograph, Third Photograph, and Fourth Photograph by the subject photographer(s)).

55. As a result of Plaintiff's reproduction, distribution, and public display of the Second Photograph, Third Photograph, and Fourth Photograph, Defendant had access to the Second Photograph, Third Photograph, and Fourth Photograph prior to its own reproduction, distribution, and public display of the Second Photograph, Third Photograph, and Fourth Photograph on Defendant's website, webpage, and/or social media.

56. Defendant reproduced, distributed, displayed, and/or publicly displayed the Second Photograph, Third Photograph, and Fourth Photograph without authorization from Plaintiff.

57. By its actions, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501. Defendant's infringement was either direct, vicarious, and/or contributory.

58. Plaintiff has been damaged as a direct and proximate result of Defendant's infringement.

59. Plaintiff is entitled to recover its actual damages resulting from Defendant's unauthorized use of the First Photograph and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits



from infringement of the Second Photograph, Third Photograph, and Fourth Photograph, which amounts shall be proven at trial.

60. Defendant's conduct has caused, and any continued infringing conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

**WHEREFORE**, Plaintiff demands judgment against Defendant as follows:

- h. A declaration that Defendant has infringed Plaintiff's copyrights in the Second Photograph, Third Photograph, and Fourth Photograph;
- i. An award of actual damages and disgorgement of profits as the Court deems proper;
- j. Awarding Plaintiff its costs pursuant to 17 U.S.C. § 505;
- k. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;
- l. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to display, transfer, advertise, reproduce, or otherwise market any works derived or copied from the Second Photograph, Third Photograph, and Fourth Photograph or to participate or assist in any such activity; and
- m. For such other relief as the Court deems just and proper.

Dated: July 29, 2024.

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